



Filed: 4/1/2005

09400SB2040sam001

LRB094 11530 RSP 44240 a

1 AMENDMENT TO SENATE BILL 2040

2 AMENDMENT NO. _____. Amend Senate Bill 2040 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Section 57.10 as follows:

6 (415 ILCS 5/57.10)

7 Sec. 57.10. Professional Engineer or Professional
8 Geologist certification; presumptions against liability.

9 (a) Within 120 days of the Agency's receipt of a corrective
10 action completion report, the Agency shall issue to the owner
11 or operator a "no further remediation letter" unless the Agency
12 has requested a modification, issued a rejection under
13 subsection (d) of this Section, or the report has been rejected
14 by operation of law.

15 (b) By certifying such a statement, a Licensed Professional
16 Engineer or Licensed Professional Geologist shall in no way be
17 liable thereon, unless the engineer or geologist gave such
18 certification despite his or her actual knowledge that the
19 performed measures were not in compliance with applicable
20 statutory or regulatory requirements or any plan submitted to
21 the Agency.

22 (c) The Agency's issuance of a no further remediation
23 letter shall signify, based on the certification of the
24 Licensed Professional Engineer, that:

1 (1) all statutory and regulatory corrective action
2 requirements applicable to the occurrence have been
3 complied with;

4 (2) all corrective action concerning the remediation
5 of the occurrence has been completed; and

6 (3) no further corrective action concerning the
7 occurrence is necessary for the protection of human health,
8 safety and the environment.

9 This subsection (c) does not apply to off-site contamination
10 related to the occurrence that has not been remediated due to
11 denial of access to the off-site property.

12 (d) The no further remediation letter issued under this
13 Section shall apply in favor of the following parties:

14 (1) The owner or operator to whom the letter was
15 issued.

16 (2) Any parent corporation or subsidiary of such owner
17 or operator.

18 (3) Any co-owner or co-operator, either by joint
19 tenancy, right-of-survivorship, or any other party sharing
20 a legal relationship with the owner or operator to whom the
21 letter is issued.

22 (4) Any holder of a beneficial interest of a land trust
23 or inter vivos trust whether revocable or irrevocable.

24 (5) Any mortgagee or trustee of a deed of trust of such
25 owner or operator.

26 (6) Any successor-in-interest of such owner or
27 operator.

28 (7) Any transferee of such owner or operator whether
29 the transfer was by sale, bankruptcy proceeding,
30 partition, dissolution of marriage, settlement or
31 adjudication of any civil action, charitable gift, or
32 bequest.

33 (8) Any heir or devisee or such owner or operator.

34 (d) An owner of a parcel of real property to the extent

1 that the no further remediation letter under subsection (c)
2 of this Section applies to the occurrence on that parcel.

3 (e) If the Agency notifies the owner or operator that the
4 "no further remediation" letter has been rejected, the grounds
5 for such rejection shall be described in the notice. Such a
6 decision shall be a final determination which may be appealed
7 by the owner or operator.

8 (f) The Board shall adopt rules setting forth the criteria
9 under which the Agency may require an owner or operator to
10 conduct further investigation or remediation related to a
11 release for which a no further remediation letter has been
12 issued.

13 (g) Holders of security interests in sites subject to the
14 requirements of this Title XVI shall be entitled to the same
15 protections and subject to the same responsibilities provided
16 under general regulations promulgated under Subtitle I of the
17 Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616) of
18 the Resource Conservation and Recovery Act of 1976 (P.L.
19 94-580).

20 (Source: P.A. 92-554, eff. 6-24-02; 92-735, eff. 7-25-02;
21 revised 9-25-03.)".